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Attorneys for Samsung Electronics Co., Ltd.,
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Samsung Research America, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

HUAWEI TECHNOLOGIES CO., LTD., et al.,

Plaintiffs,

v.

SAMSUNG ELECTRONICS CO., LTD., et al.,

Defendants.

SAMSUNG ELECTRONICS CO., LTD. &
SAMSUNG ELECTRONICS AMERICA, INC.,

Counterclaim-Plaintiffs,

v.

HUAWEI TECHNOLOGIES CO., LTD.,
HUAWEI DEVICE USA, INC., HUAWEI
TECHNOLOGIES USA, INC., & HISILICON
TECHNOLOGIES CO., LTD.,

Counterclaim-Defendants.

CASE NO. 16-cv-02787-WHO

**DECLARATION OF JOCELYN MA IN
SUPPORT OF HUAWEI'S
ADMINISTRATIVE MOTION TO
FILE UNDER SEAL PORTIONS OF
THE DECLARATION OF DAVID C.
GIARDINA IN SUPPORT OF
HUAWEI'S OPPOSITION TO
SAMSUNG'S MOTION FOR
CLARIFICATION OF THE COURT'S
SEPT. 25, 2018 DAUBERT ORDER,
OR IN THE ALTERNATIVE, LEAVE
TO SERVE A LIMITED
SUPPLEMENTAL EXPERT REPORT**

1 I, Jocelyn Ma, declare as follows:

2 1. I am a member of the State Bar of California, admitted to practice before this
3 Court, and an attorney at the law firm of Quinn Emanuel Urquhart & Sullivan, LLP, counsel for
4 Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Research
5 America, Inc. (collectively, "Samsung"). Except as otherwise indicated, I have personal
6 knowledge of the facts stated herein and, if called as a witness, could and would testify thereto.

7 2. Pursuant to Civil L.R. 79-5, I make this declaration in support of Huawei's
8 Administrative Motion to File Under Seal Portions of the Declaration of David C. Giardina in
9 Support of Huawei's Opposition to Samsung's Motion for Clarification of the Court's Sept. 25,
10 2018 Daubert Order, Or in the Alternative, Leave to Serve A Limited Supplemental Expert Report
11 (Dkt. 428).

12 3. I have reviewed the exhibits to the Declaration of David C. Giardina in Support of
13 Huawei's Opposition to Samsung's Motion for Clarification of the Court's Sept. 25, 2018 Daubert
14 Order, Or in the Alternative, Leave to Serve A Limited Supplemental Expert Report (the
15 "Giardina Declaration") that contain or suggest confidential information.

16 4. Exhibits 3, 4, and 5 to the Giardina Declaration contain information that has been
17 designated as "Highly Confidential – Attorneys' Eyes Only" under a protective order in this Case
18 No. 3:16-cv-02787 (N.D. Cal.). In addition, Exhibits 3, 4, and 5 to the Giardina Declaration
19 contain information from depositions and expert reports for the *Apple v. Samsung* cases in the
20 Northern District of California (Nos. 11-cv-01846-LHK and 12-cv-00630-LHK) and for an
21 investigation before the International Trade Commission (No. 337-TA-794), and thus are subject
22 to the respective protective orders in those matters, which provide for the continued protection of
23 confidential information produced from those matters.

24 5. Attached hereto are versions of Exhibits 3, 4, and 5, to the Giardina Declaration
25 that contain blue highlights denoting the portions of the exhibits which Samsung seeks to seal,
26 yellow highlights denoting the portions of the exhibits which Huawei seeks to seal, and green
27 highlights denoting the portions of the exhibit which both parties seek to seal.

1 6. The blue and green highlighted portions of paragraph 6 on pages 2-3 of the version
2 of Exhibit 3 to the Giardina Declaration attached to this declaration contain information about
3 licensing negotiations between Apple and Samsung. Those negotiations were subject to a non-
4 disclosure agreement and conducted confidentially. Samsung maintains information about those
5 negotiations as highly confidential and does not disclose it to the public. Disclosure of such
6 information to the public could harm Samsung's competitive standing by giving competitors
7 access to information about Samsung's negotiating practices that Samsung does not have similar
8 access to in return.

9 7. The blue and green highlighted portions of paragraph 3 on page 1 and paragraph 7
10 on page 3 of the version of Exhibit 3 to the Giardina Declaration attached to this declaration
11 contain information about a confidential agreement between Apple and Samsung, the substance of
12 which the parties have mutually agreed to keep strictly confidential. These portions of Exhibit 3
13 to the Giardina Declaration do not concern matters of legitimate public interest. Disclosure of such
14 information to the public would be a violation of the agreement's confidentiality terms, which the
15 parties consider material to the agreement. Disclosure of such information to the public could
16 harm Samsung's competitive standing by giving competitors access to information about
17 Samsung's negotiating practices that Samsung does not have similar access to in return.

18 8. The blue highlighted portions of paragraph 8 on page 3, paragraph 9 on page 4, and
19 paragraph 10 on page 5 of the version of Exhibit 3 to the Giardina Declaration attached to this
20 declaration are references to and excerpts from fact and expert testimony regarding highly
21 confidential information about licensing negotiations between Apple and Samsung. Those
22 negotiations were subject to a non-disclosure agreement and conducted confidentially. Samsung
23 maintains information about those negotiations as highly confidential and does not disclose it to
24 the public. Disclosure of such information to the public could harm Samsung's competitive
25 standing by giving competitors access to information about Samsung's negotiating practices that
26 Samsung does not have similar access to in return. Moreover, the fact and expert testimony
27 contain information from depositions and expert reports for the *Apple v. Samsung* cases in the
28 Northern District of California (Nos. 11-cv-01846-LHK and 12-cv-00630-LHK) and for an

1 investigation before the International Trade Commission (No. 337-TA-794), and thus are subject
2 to the respective protective orders in those matters, which provide for the continued protection of
3 confidential information produced from those matters.

4 9. The blue highlighted portions on pages 2-9 of the version of Exhibit 4 to the
5 Giardina Declaration attached to this declaration are references to and excerpts of fact and expert
6 testimony and expert reports which contain highly confidential information about licensing
7 negotiations between Apple and Samsung, as well as Samsung's negotiation strategies. Those
8 licensing negotiations were subject to a non-disclosure agreement and conducted confidentially.
9 Samsung maintains information about those negotiations and its negotiation strategies as highly
10 confidential, and does not disclose them to the public. Disclosure of such information to the
11 public could harm Samsung's competitive standing by giving competitors access to information
12 about Samsung's negotiating practices that Samsung does not have similar access to in return.
13 Moreover, the fact and expert testimony contain information from depositions and expert reports
14 for the *Apple v. Samsung* cases in the Northern District of California (Nos. 11-cv-01846-LHK and
15 12-cv-00630-LHK) and for an investigation before the International Trade Commission (No. 337-
16 TA-794), and thus are subject to the respective protective orders in those matters, which provide
17 for the continued protection of confidential information produced from those matters.

18 10. The blue highlighted portions on pages 1-2 of the version of Exhibit 5 to the
19 Giardina Declaration attached to this declaration are references to and excerpts of fact testimony
20 about highly confidential business information regarding Samsung's standards contribution
21 development and patent application practices. Public disclosure of this information would harm
22 Samsung's competitive standing by giving its competitors access to information that Samsung
23 does not have similar access to about its competitors. Competitors could use this information to
24 Samsung's disadvantage in the marketplace. Moreover, the fact testimony stems from a
25 deposition that was conducted for the *Apple v. Samsung* case in the Northern District of California
26 (No. 12-cv-00630-LHK), and thus is subject to the protective order in that matter, which provides
27 for the continued protection of confidential information produced from that matter.

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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct. Executed November 19, 2018, in San Francisco, California.

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4 /s/ Jocelyn Ma

5 Jocelyn Ma
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ATTESTATION

Pursuant to Civil L.R. 5-1(i)(3), the undersigned attests that concurrence in the filing of this Declaration has been obtained from Jocelyn Ma.

/s/ Victoria F. Maroulis
Victoria F. Maroulis